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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte DROR ZERNIK, MOSHE AVLAGON, and HOVAV LAPIDOT

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Appeal 2015-001044
Application 12/300,494[1]
Technology Center 3600

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Before BIBHU R. MOHANTY, CYNTHIA L. MURPHY, and
ROBERT J. SILVERMAN, *Administrative Patent Judges.*

SILVERMAN, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's
decision rejecting claims 12–31. We have jurisdiction under 35 U.S.C.
§ 6(b). Oral arguments were presented on February 14, 2017, by telephone.

We REVERSE.

_____

[1] The Appellants identify Nice-Systems Ltd. as the real party in interest.
Appeal Br. 1.

ILLUSTRATIVE CLAIM

12. A method for offering products to customers of a call center, implemented in a customer relation management (CRM) system, the method comprising:

receiving, during a specific interaction between a customer and a call center agent, one or more interaction-specific parameters values;

during the interaction, determining by a data-mining model engine based on statistical methods, one or more selected parameters for which a value associated with the customer is not stored in the CRM system, using data stored in model tables that rank customer parameters according to relative contribution to purchasing of a plurality of products, wherein the model tables are formed based on results of statistical analysis;

sending instructions to the call center agent to obtain from the customer, one or more customer-specific values for the one or more selected parameters, for which a value associated with the customer is not stored in the CRM system and receiving from the call center agent the one or more customer-specific values by the model engine;

during the interaction, choosing by the data-mining model engine based on statistical methods, one or more of the plurality of products as a selected product using the model tables, the stored data and the one or more customer-specific values for the one or more selected parameters; and

during the interaction, sending instructions to the call center agent to suggest the selected product as on offer to the customer.

CITED REFERENCES

The Examiner relies upon the following references:

Wright	US 2003/0200135 A1	Oct. 23, 2003
Quatse et al. (hereinafter "Quatse")	US 2005/0010472 A1	Jan. 13, 2005

Hightower et al.   US 2006/0123331 A1 June 8, 2006
(hereinafter "Hightower")

Prigogin et al.   US 7,519,566 B2 Apr. 14, 2009
(hereinafter "Prigogin")

Ramchandani et al. US 7,962,361 B2 June 14, 2011
(hereinafter "Ramchandani")

REJECTIONS

I. Claims 12–31 are rejected under 35 U.S.C. § 101 as directed to ineligible subject matter.[2]

II. Claims 12–18 and 22–28 are rejected under 35 U.S.C. § 103(a) as unpatentable over Ramchandani and Hightower.

III. Claims 19 and 29 are rejected under 35 U.S.C. § 103(a) as unpatentable over Ramchandani, Hightower, and Quatse.

IV. Claims 20 and 30 are rejected under 35 U.S.C. § 103(a) as unpatentable over Ramchandani, Hightower, and Prigogin.

V. Claims 21 and 31 are rejected under 35 U.S.C. § 103(a) as unpatentable over Ramchandani, Hightower, and Wright.

FINDINGS OF FACT

The findings of fact relied upon, which are supported by a preponderance of the evidence, appear in the following Analysis.

ANALYSIS

Patent-Eligible Subject Matter

According to the Examiner, following the two-part analytical framework of *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2355 (2014), claims 12–31 are "directed to the abstract idea of a method of

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[2] The rejection under 35 U.S.C. § 101 was added as a New Ground of Rejection in the Answer (pages 2–3).

organizing human activities to a mathematical relationship or formula" and the claim language does not "provide meaningful limitation(s) to transform the abstract idea into a patent eligible application of the abstract idea such that the claim(s) amounts to significantly more than the abstract idea itself." Answer 2–3.

Yet, the Appellants persuasively argue for error because, on the present record, the rejection does not show that the claimed features fail to "'transform the nature of the claim' into a patent-eligible application." *Alice*, 134 S. Ct. at 2355. As explained by the Appellants, on account of the ordered combination of the recited features, a call center agent "may be informed in real time regarding which information related to the customer is most valuable to the company in order to determine the product which has the highest probability to be purchased by the customer of a specific call." Appeal Br. 4; *see also* Reply Br. 4. Although the rejection mentions a "combination of elements" (Answer 2), there are no findings in the record indicating that these real-time activities constitute generic computer functions — or, for that matter, any analysis of whether the particular claimed combination might nevertheless yield a patent-eligible application of the purported abstract idea. *See Bascom Global Internet Services, Inc. v. AT&T Mobility LLC*, 827 F.3d 1341, 1350 (Fed. Cir. 2016) ("The inventive concept inquiry requires more than recognizing that each claim element, by itself, was known in the art. . . . [A]n inventive concept can be found in the non-conventional and non-generic arrangement of known, conventional pieces.")

Therefore, the rejection of claims 12–31 under 35 U.S.C. § 101 is not sustained.

Obviousness

The Appellants argue, among other things, that the cited references do not teach or suggest claim 12's use of "data stored in model tables that rank customer parameters according to relative contribution to purchasing of a plurality of products." *See* Appeal Br. 4–7; Reply Br. 8–9. Independent claim 22 recites a similar limitation and is likewise argued.

The Appellants' argument is persuasive of error in the rejection.

The Examiner finds that Ramchandani teaches the identified limitation of claim 12, in its disclosure of "cataloguing customer behavior" and its customer relationship management database containing "tables relating to customer information and customer preferences based on prior transactions." *See* Answer 7–8 (quoting Ramchandani, col. 5, ll. 43–50, col. 17, ll. 25–35); *see also* Advisory Action 2 (stating that Ramchandani "ranks (cataloguing) the customers [sic] interactions as a basis of making engagement recommendations.")

Yet, as the Appellants explain, Ramchandani does not disclose the claimed "rank[ed] customer parameters" because merely catalogued data about a customer is not the same as the claimed ranked data (*see* Reply Br. 8) — let alone ranked "according to relative contribution to purchasing of a plurality of products" and in real time (i.e., "during the interaction"), as set forth in claim 12.

In addition, the Final Office Action (pages 3–4 (citing Hightower ¶¶ 7, 31)) states that Hightower teaches the above-identified limitation, but the cited portions of Hightower do not disclose the claimed "rank[ing]" feature (*see* Appeal Br. 6–7).

In view of the foregoing, the rejection of independent claims 12 and 22 under 35 U.S.C. § 103(a) is not sustained. The Examiner's further findings and determinations with respect to the dependent claims and the additional prior art references do not cure the above-noted shortcomings of Ramchandani and Hightower, and so the rejections of dependent claims 13–21 and 23–31 under 35 U.S.C. § 103(a) are also not sustained.

DECISION

We REVERSE the Examiner's decision rejecting claims 12–31 under 35 U.S.C. § 101.

We REVERSE the Examiner's decision rejecting claims 12–31 under 35 U.S.C. § 103(a).

REVERSED